

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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RAYMOND DAVIS

Plaintiff,

CITY OF NEW YORK, & JOHN
& JANE DOES ## 1-4,

Defendants.

COMPLAINT

JURY TRIAL DEMANDED

07cv 6430(AKH)

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NATURE OF ACTION

1. This action is brought by Plaintiff to recover damages for false arrest, malicious prosecution and other violations of Plaintiff's rights.

THE PARTIES

2. Plaintiff is a resident of Bronx, New York.

3. The City of New York is a municipal corporation whose residence is in all five counties of New York City.

4. John and Jane Does ## 1-4 of the New York City Police Department.

JURISDICTION AND VENUE

5. Jurisdiction is proper in this district pursuant to 28 U.S.C. § 1331 in that this action arises under the Constitution and laws of the United States, among them 42 U.S.C. § 1983.

6. Venue is properly placed in this district pursuant to 28 U.S.C. § 1391(c) in that the City of New York is deemed to reside in this jurisdiction.

FACTUAL ALLEGATIONS UNDERLYING PLAINTIFF'S CLAIMS

7. On June 21, 2006 at approximately 6 PM at the corner of 181st Street and Creston Avenue in the Bronx, plaintiff was obeying all laws and was falsely arrested by two police officers, and thereafter kept in jail for three days.

8. At the time of his arrest, plaintiff was assaulted by one of the officers, whose badge number is, upon information and belief, 5066.

9. As a result of this assault, plaintiff suffered at least one broken rib and a broken nose. His requests by the police to be taken to the hospital were denied.

10. In or about February 2007, plaintiff's case was resolved pursuant to an adjournment in contemplation of dismissal

FIRST CAUSE OF ACTION
FALSE ARREST UNDER 42 U.S.C. § 1983

25 Plaintiff repeats and realleges the allegations set forth in all preceding paragraphs.

26 Plaintiff was arrested without probable cause. The conduct of defendants violated plaintiff's right to be free of unreasonable and unlawful seizure, secured by the Fourth and Fourteenth Amendments to the Constitution and 42 U.S.C. § 1983.

27 By virtue of the foregoing, Plaintiff has been damaged.

SECOND CAUSE OF ACTION
FALSE ARREST UNDER THE CONSTITUTION OF THE STATE OF NEW YORK

28 Plaintiff repeats and realleges the allegations set forth in all preceding paragraphs.

29 In the event that the federal constitution would allow probable cause based on the 911 call or other information plaintiff is not now aware of, plaintiff was arrested without probable cause under the state constitution . The conduct of defendants violated plaintiff's right to be free of unreasonable and unlawful seizure, secured by Article I Section 12 of said constitution .

30 By virtue of the foregoing, Plaintiff has been damaged.

THIRD CAUSE OF ACTION
FALSE ARREST AND IMPRISONMENT

31. Plaintiff repeats and realleges the allegations set forth in all preceding paragraphs as if fully set forth herein.

32. Defendants intended to confine the plaintiff. The plaintiff was conscious of the confinement and he did not consent to the confinement.

33. The confinement was not otherwise privileged, either at the point of the initial arrest, or at the point the defendants knew they would not charge plaintiff with any other crimes.

34. By virtue of the foregoing, Plaintiff has been damaged.

FOURTH CAUSE OF ACTION
EXCESSIVE USE OF FORCE
42 U.S.C. § 1983

35. Plaintiff repeats and realleges the previous allegations as if fully set forth herein.

36. Acting under color of state law, defendants excessive force in arresting plaintiff that cause severe injury.

37. As a result of the foregoing, Plaintiff has been damaged and demands compensatory and punitive relief.

FIFTH CAUSE OF ACTION
ASSAULT

38. Plaintiff repeats and realleges the allegations set forth in all preceding paragraphs.

39. By virtue of the foregoing, Plaintiff has been damaged.

SIXTH CAUSE OF ACTION
BATTERY

41. Plaintiff repeats and realleges the previous allegations as if fully set forth herein.

42. As a result of the foregoing, Plaintiff has been damaged and demands compensatory and punitive relief.

WHEREFORE, Plaintiff demands as follows:

- A. Compensatory damages;
- B. Punitive damages to be determined by the trier of fact;
- C. Cost of suit and attorneys fees pursuant to 42 U.S.C. § 1988;

D. Such other relief as the Court may deem just and proper.

Dated: New York, New York
July 11, 2007

/s/
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